

Subject:	Waivers of Contract Standing Orders		
Date of Meeting:	10 October 2019		
Report of:	Executive Director Finance & Resources		
Contact Officer:	Name:	Cliff Youngman	Tel: 291408
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1. The Council's Contract Standing Orders (CSOs) require reports to be presented to Policy, Resources & Growth Committee, setting out all waivers authorised under CSO 20.2, 20.3 and 20.4. This report relates to the financial years 2017/18 and 2018/19.

2. RECOMMENDATIONS:

2.1. That Policy & Resources Committee notes the number and value of waivers authorised under Contract Standing Orders 20.2, 20.3 and 20.4 during the financial years 2017/18 and 2018/19 and the improvements made to the waiver process following Member involvement.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Under CSOs 20.1 and 20.2, Executive Directors have delegated powers to waive CSOs in relation to contracts with an estimated contract value of less than £75,000 following notification of the Procurement Strategy Manager and over £75,000 following consultation with the chair of the relevant Committee and the Procurement Strategy Manager.

3.2 For the financial year 2017/18 Waivers have been collated under the council's current Directorates plus Public Health, which has subsequently merged into the Health & Adult Social Care Directorate. The 2017/18 Annual Waiver report was not published during 2018. This report covers this shortfall and the current position. Waivers for the financial year 2018/19 are collated under the council's existing Directorate structure.

3.3 Statistical analyses of waivers in the financial years 2017/18 and 2018/19 are included at **Appendix A, B, C and D** of this report.

3.4 A summary of the number and value of waivers under and over £75,000 for the years 2017/18 and 2018/19 is shown in Table 1 below.

Table 1				
	Number of Waivers		Value of Waivers	
Year	2017/18	2018/19	2017/18	2018/19
Under £75,000	34	25	£1.6m	£0.9m
Over £75,000	26	16	£11.2m	£7.9m
Total	60	41	£12.8m	£8.8m
% of total Spend pa			4.7%	3.0%

- 3.5 The £12.8m total value for 2017/18 includes Waiver reference CP217 for the high value Schools Meals contract. This Waiver has a value of £4.4m and covers a 12 month period to afford a seamless transition contract period in the likelihood of a change of provider. At the conclusion of this procurement, the new contract was awarded to a different supplier rather than the incumbent.
- 3.6 Within the overall totals, there were 10 Waivers in 2017/18 with a value of £0.496m, and 11 in 2018/19 with a value of £1m to allow for the extension of existing contracts to accommodate collaboration and bigger scale in order to achieve savings. Several were within the Orbis Partnership in service areas such as IT & Digital and Business Operations.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 There are no options relating to this report.
- 4.2 Each waiver decision is taken on its merits taking into account value for money implications, service delivery, business continuity impacts and other critical factors. **Appendix E** sets out further information around when waivers are appropriate.
- 4.3 The Waiver process was audited in 2016 with a follow-up in 2017. The outcome of the follow-up was Substantial Assurance. A further audit is being undertaken during FY 2019/20.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Head of Procurement has engaged extensively with members of the Procurement Advisory Board over all procurement matters following the appointment of new members and the council election in May. The measures outlined in Section 3 and **Appendix F** are the result of this engagement.
- 5.2 Waiver documents now require the consideration of opportunities around Social Value and Community Wealth Building. This inclusion ensures that waived

contracts are subject to the same scrutiny as tendered projects. The information gathered from the Waivers will be included in the Procurement Team's reporting framework

6. CONCLUSION

- 6.1 Increased penetration into category service areas has allowed the Corporate Procurement Team to draw up a Forward Plan for the next two to three years which will promote early consideration of procurement options and eliminate some of the need for waivers and extensions.
- 6.2 The Corporate Procurement service continues to promote good procurement practice across the council and are utilising various innovative approaches which are allowed for within CSOs without the need for a waiver e.g. the increase in the use of consortium contracts and frameworks.
- 6.3 Since the transfer to the South East Shared Services e-procurement portal, and the council joining the Orbis Partnership, Procurement are actively promoting greater collaboration with councils across the region. This has seen a boost in the number of waivers as contract end dates are aligned, but should see them decrease over time with benefits accruing to the partner councils through savings made in joint procurements.
- 6.4 The Corporate Procurement service also continues to promote good practice in contract governance across the council while also actively investigating and working with services areas to achieve improvement.
- 6.5 The Procurement Team have worked closely with Members of The Procurement Advisory Board to adapt to changing priorities.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The use of the waiver function allows the council to achieve best value and efficiencies from its Contract Standing Orders. It should be noted that any direct financial implications for individual waivers are provided and reported as part of the waiver decision process.

Finance Officer Consulted: Nigel Manvell

Date: 14/08/19

Legal Implications:

- 7.2 Contract Standing Order 20.5 sets out that a report for information giving a digest of all waivers under CSO 20.2, 20.3 and 20.4 shall be made by the Procurement Strategy Manager covering the previous financial year annually to the Policy, Resources & Growth Committee. It should be noted that legal implications are required for each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

Equalities Implications:

- 7.3 There are no direct equalities implications in this report; it should be noted that full equalities implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

Sustainability Implications:

- 7.4 There are no direct implications in this report and it should be noted that full sustainability implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

8. MEMBERS PROCUREMENT ADVISORY BOARD CONSIDERATIONS

- 8.1 This report was presented to MPAB on 9th September 2019. Members were satisfied with the content and required no further information.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A - Analysis by Reason - for Period 1/4/17 to 31/3/18 (2017/18)
2. Appendix B - Analysis by Directorate - for Period 1/4/17 to 31/3/18 (2017/18)
3. Appendix C - Analysis by Reason - for Period 1/4/18 to 31/3/19 (2018/19)
4. Appendix D - Analysis by Directorate - for Period 1/4/18 to 31/3/19 (2018/19)
5. Appendix E – Waiver approval process and reason code key
6. Appendix F – PAB reporting improvements

Documents in Members' Rooms

1. None

Background Documents

1. None